

Amendments to the Drawings:

Figure 1 is amended as shown in the attached marked up Figure. A replacement sheet is also submitted herewith.

REMARKS/ARGUMENTS

Information Disclosure Statement

The Examiner inquired why sheet 1 of 2 was filed with the IDS of 7/22/04, but no sheet 2/2. There is no sheet 2 of 2. Any inconvenience to the Examiner is regretted.

Status of Claims

Claims 1 and 22-44 are pending in this application. Original claims 1-21 were rejected. By this amendment, claims 2-21 have been cancelled without prejudice and new claims 22-44, which generally correspond to original claims 2-21 as discussed below, have been added. No new matter has been added by this amendment. The amendments made to the claims do not alter the scope of these claims, nor have these amendments been made to define over the prior art. Rather, they have been made to improve the form thereof. In light of the amendments and remarks set forth below, Applicants respectfully submit that each of the pending claims is in immediate condition for allowance.

Drawing Changes

Applicants hereby request Examiner approval for the drawing changes to Figure 1 as shown in red on the attached copy. Applicants note that in Figure 1, reference designator 11 was not pointing to the separation column. Applicants have corrected figure 1. Favorable consideration of the enclosed corrected drawing is respectfully requested.

Rejection under 35 USC 112

The Examiner rejected claims 1-21 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In accordance with the Examiner's remarks, and to more clearly define the invention, Applicant has amended claim 1 and noted the Examiner's comments insofar as they may apply to new claims 22-44.

In particular, Applicants have removed occurrences of "preferably" and "approximately" from original claims 3 and 5. New claims 22, 23 generally correspond to original claim 3, and new claims 25, 26 generally correspond to original claim 5. New claim 35, which generally corresponds to original claim 13, recites "NaCl and water." New claim 43, which generally corresponds to original claim 20, recites calcium. Finally, the Office Action notes that the term "oxidation +II" is non-idiomatic. Applicants respectfully submit that "oxidation +II" is a shorthand notation used by those skilled in the art that refers to oxidation whereby two electrons are removed. Nevertheless, this terminology has been removed from the claims. Based on the above, Applicants respectfully request that the Examiner withdraw the rejections under 35 U.S.C. § 112, second paragraph.

Rejection over Prior Art

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,008,076 ("Junghanss") in view of U.S. Patent No. 4,123,260 ("Sefton"). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the limitations of the claim in question and there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or combine references to arrive at the claimed subject matter. See, M.P.E.P. § 706.02(j). A reference can only be used for what it clearly discloses or suggests. See, In re Hummer, 113 U.S.P.Q. 66 (C.C.P.A. 1957); In re Stencel, 4 U.S.P.Q.2d 1071, 1073 (Fed. Cir. 1987). Here, the references, whether taken individually or in combination, do not disclose or suggest the invention claimed by the Applicants.

Among the limitations of independent claim 1 not present in the cited references is

separation of zinc and a second metal, the zinc and the second metal being present in an effluent in the form of ZnCl_2 and second metal chloride, the second metal being nickel, and the effluent comprising a concentration of zinc of 140 ± 40 g/l and a concentration of nickel of 37 ± 10 g/l.

Claim 1 explicitly recites a process by which zinc and nickel are extracted from an effluent in which they are both present. Neither Junghans nor Sefton, alone or in combination, disclose the claimed process. As discussed in the present specification, due to the similarities between zinc and nickel, classic separation of metals has proven ineffective in isolating zinc and nickel. Because of their similar chemical properties, the physical chemical methods of separation, which are of the precipitation type, or the electrochemical processes of separation, such as electrodeposition, are not satisfactory. See Specification, p.2, ll.16-22.

Neither Junghans nor Sefton suggests a process for separating zinc and nickel, in particular, when present in an effluent at respective concentrations of 140 ± 40 g/l and 37 ± 10 g/l. In contrast, the presently claimed process results in an efficient separation of zinc and nickel. Consequently, claim 1 is clearly allowable over the applied references.

Claims 22-44 depend from and contain all the limitations of claim 1 and, thus, are allowable therewith. These dependent claims also recite additional limitations which, in

combination with the limitations of claim 1, are neither disclosed nor suggested by Junghans or Sefton and are also directed toward patentable subject matter. Thus, claims 22-44 should also be allowed.

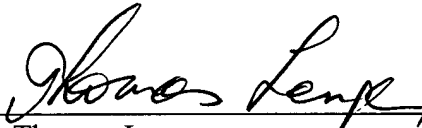
Conclusion

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and withdrawal of the rejections, and prompt issuance of a Notice of Allowance for all of the pending claims are, therefore, respectfully requested. If the Examiner believes an interview would be of assistance, the Examiner is encouraged to contact the undersigned at the number listed below.

Payment for a one month time extension and for three additional dependent claims in the amount of \$270.00 is included in the check enclosed herewith. If any additional fees or charges are required at this time, they may be charged to our Patent and Trademark Deposit Account No. 03-2412.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP

By

A handwritten signature in black ink, appearing to read "Thomas Langer", is written over a horizontal line.

Thomas Langer
Reg. No. 27,264
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

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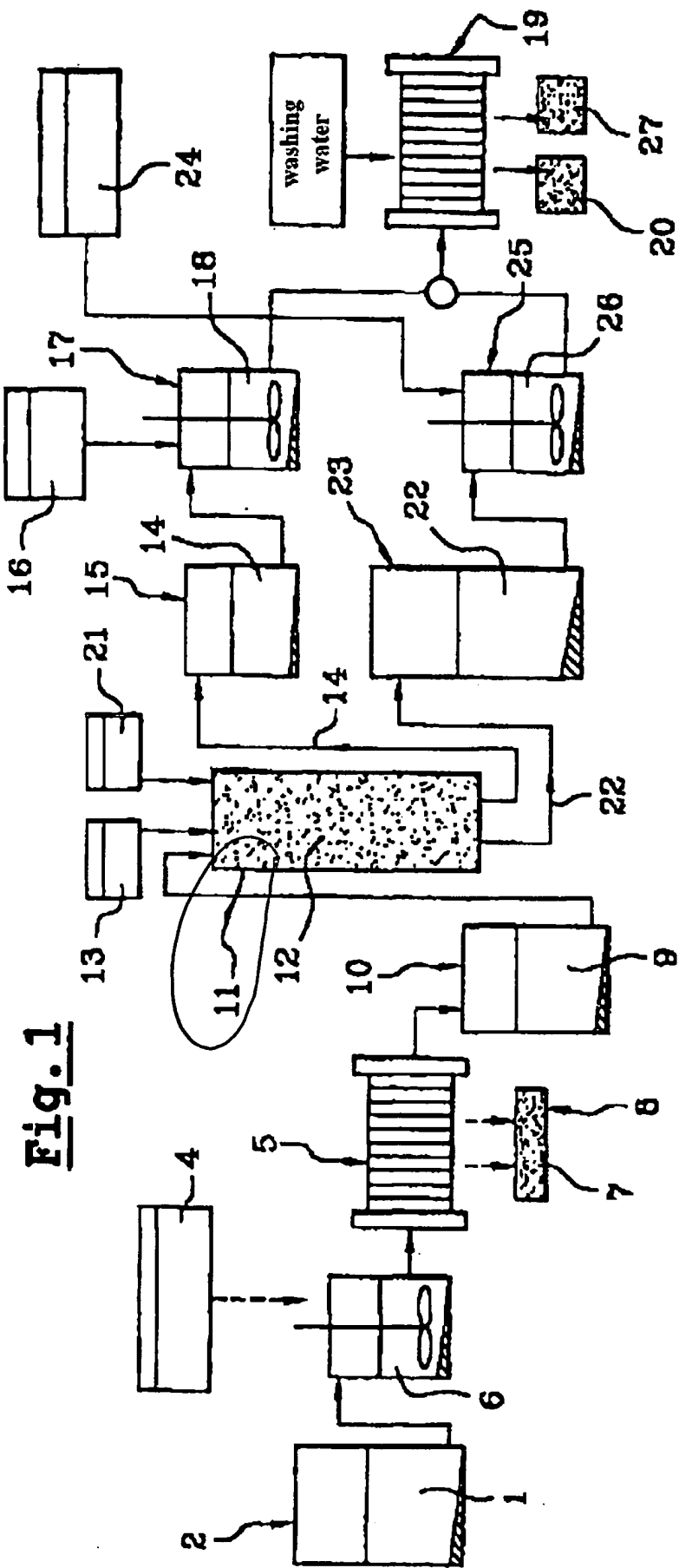


Fig. 1